the Department, including any administrative law judge or board of the Office, or to direct any such employee or employees to reconsider a decision, except a decision by the Board of Contract Appeals which is subject to the Contract Disputes Act of 1978.

(b) *The Director.* Except for cases or decisions subject to the Contract Disputes Act of 1978, the Director, pursuant to his delegated authority from the Secretary, may assume jurisdiction of any case before any board of the Office or review any decision of any board of the Office or direct reconsideration of any decision by any board of the Office.

(c) *Exercise of reserved power.* If the Secretary or Director assumes jurisdiction of a case or reviews a decision, the parties and the appropriate Departmental personnel will be advised in writing of such action, the administrative record will be requested, and, after the review process is completed, a written decision will be issued.

[50 FR 43705, Oct. 29, 1985, as amended at 52 FR 46355, Dec. 7, 1987; 52 FR 47097, Dec. 11, 1987]

Subpart B—General Rules Relating to Procedures and Practice

§ 4.20 Purpose.

In the interest of establishing and maintaining uniformity to the extent feasible, this subpart sets forth general rules applicable to all types of proceedings before the Hearings Division and the several Appeals Boards of the Office of Hearings and Appeals.

§ 4.21 General provisions.

(a) *Effect of decision pending appeal.* Except as otherwise provided by law or other pertinent regulation:

(1) A decision will not be effective during the time in which a person adversely affected may file a notice of appeal; when the public interest requires, however, the Director or an Appeals Board may provide that a decision, or any part of a decision, shall be in full force and effective immediately;

(2) A decision will become effective on the day after the expiration of the time during which a person adversely affected may file a notice of appeal unless a petition for a stay pending appeal is filed together with a timely notice of appeal; a petition for a stay may be filed only by a party who may properly maintain an appeal;

(3) A decision, or that portion of a decision, for which a stay is not granted will become effective immediately after the Director or an Appeals Board denies or partially denies the petition for a stay, or fails to act on the petition within the time specified in paragraph (b)(4) of this section.

(b) *Standards and procedures for obtaining a stay.* Except as otherwise provided by law or other pertinent regulation:

(1) A petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

(i) The relative harm to the parties if the stay is granted or denied,

(ii) The likelihood of the appellant's success on the merits,

(iii) The likelihood of immediate and irreparable harm if the stay is not granted, and

(iv) Whether the public interest favors granting the stay;

(2) The appellant requesting the stay bears the burden of proof to demonstrate that a stay should be granted;

(3) The appellant shall serve a copy of its notice of appeal and petition for a stay on each party named in the decision from which the appeal is taken, and on the Director or the Appeals Board to which the appeal is taken, at the same time such documents are served on the appropriate officer of the Department; any party, including the officer who made the decision being appealed, may file a response to the stay petition within 10 days after service; failure to file a response shall not result in a default on the question of whether a stay should be granted; service shall be made by delivering copies personally or by sending them by registered or certified mail, return receipt requested;

(4) The Director or an Appeals Board shall grant or deny a petition for a stay pending appeal, either in whole or in part, on the basis of the factors listed in paragraph (b)(1) of this section, within 45 calendar days of the expiration of the time for filing a notice of appeal;